

IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR

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JULY 31, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed SEP 3 1986

U. S. GOVT. PUBL. DEPOSITORY
Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 4333]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 4333) to amend title 38, United States Code, to improve veterans' benefits for former prisoners of war, having considered the same, report favorably thereon without amendment by unanimous voice vote, and recommend that the bill do pass.

INTRODUCTION

On July 29, 1986, the Committee reported H.R. 4333, a bill to improve benefits for former prisoners of war. On June 5, 1986, the Subcommittee on Compensation, Pension and Insurance conducted a hearing on this bill. All testimony, from the Veterans' Administration and from a number of veterans' organizations, supported the legislation. On June 19, 1986, the Subcommittee recommended H.R. 4333 to the full Committee.

On July 29, 1986, by voice vote, the Committee ordered H.R. 4333 to be reported to the House.

SUMMARY OF THE BILL

The reported bill (H.R. 4333) would add three medical conditions to the list of those for which service-connection may be presumed if manifested to be a compensable degree by veterans who were prisoners of war for at least thirty days. The additional conditions are: (a) organic residuals of hypothermia, particularly frozen hands and feet; (b) spastic colon; and (c) arthritis due to trauma. The bill would also reduce, from six months to ninety days, the period of

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time that a former prisoner of war would have to have been held captive to qualify for VA-furnished treatment for a dental condition or dental disability.

The Committee has always been cognizant of the problems of former prisoners of war with regard to health problems related to the hardships endured during periods of captivity by enemy forces. VA policy is to treat claims of former prisoners of war in a liberal manner, giving special consideration to the hardships and privations they have endured. Public Law 97-37, which added a number of medical conditions to the list for which service-connection may be presumed, also provided medical benefits for any needed treatment of these individuals.

The Committee has learned that, in a limited number of cases, former prisoners of war have been unsuccessful in establishing their claims for the three conditions named in the bill. Normally, the conditions would become manifest and require treatment upon repatriation or shortly thereafter, and typically the Veterans Administration has recognized the validity of the claims. In a few cases, the former prisoner of war did not assert his claim until several years after separation from service. In the absence of an intercurrent cause for these medical conditions, the bill would ensure the claims are honored.

OVERSIGHT FINDINGS

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee received the following letter from the Congressional Budget Office on the reported bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 31, 1986.

Hon. G.V. MONTGOMERY,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 4333, a bill to improve veterans' benefits to former prisoners of war, as ordered by the House Committee on Veterans' Affairs on July 29, 1986.

Based on this review, we estimate that the cost to the federal government as a result of enactment of this legislation would not be significant. According to information from the Veterans Administration, there are very few former prisoners of war who are not already eligible for the benefits cited in the bill. Therefore, the cost of extending benefits to this small number of veterans should not significantly increase function 700 outlays.

If you have questions regarding this estimate, please call me or have members of your staff contact Nina Shepherd (226-2820).

With best wishes,
Sincerely,

RUDOLPH G. PENNER, *Director*



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INFLATIONARY IMPACT STATEMENT

The enactment of the reported bill would have no inflationary impact.

AGENCY REPORTS

The committee received the following views of the Veterans' Administration on the reported bill:

VETERANS ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, DC, June 27, 1986.

Hon. G.V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Veterans Administration on H.R. 4333, 99th Congress, a bill which would amend title 38 of the United States Code to enlarge veterans' benefits eligibility for former POWs.

If enacted, this bill would add three medical conditions to the list of those for which service connection may be presumed if manifested to a compensable degree, at any time following service, by veterans who were POWs for at least 30 days. The additional conditions are: (a) organic residuals of hypothermia, particularly frozen hands and feet; (b) spastic colon; and (c) arthritis due to trauma. This bill would also reduce, from 6 months to 90 days, the period of time that a former POW would have to have been held captive to qualify for VA-furnished treatment for a dental condition or disability.

We understand the sentiments of those supporting this legislation, and while we believe it to be largely unnecessary, we would not oppose enactment of H.R. 4333.

Initially, we wish to make clear that an expansion of the list of presumptive diseases, as now proposed, would have only a minimal effect on the VA's current adjudicative practices. There are two reasons for this. First, in the case of POWs, the conditions identified in the bill ordinarily would become manifest and require treatment upon repatriation or shortly thereafter, and so typically service connection can be and is recognized on a "direct" basis following a review of available medical evidence. Second, VA policy is to treat claims of former POWs in a liberal manner, giving special consideration to the hardships and privations they have endured and, of course, resolving any reasonable doubt in their favor. We thus believe there is no need for a statutory presumption in respect to the vast majority of claims involving hypothermia residuals, spastic colon, and traumatic arthritis.

On the other hand, we are mindful that some cases do not fit the norm. In particular, we are aware of the realities of the repatriation process and the initial tendency of many ex-POWs to put aside their traumatic experiences. This, in turn, can result in a lack of sufficient evidence to substantiate a claim filed some years later. We believe, therefore, that this legislation could serve as a "safety net" for some ex-POWs, facilitating grants of service connection well after service in some deserving cases.

In evaluating H.R. 4333, it is well to keep in mind that the statutory presumption is not conclusive but rather rebuttable in nature. In a particular case, it may be overcome by evidence of record establishing that the condition claimed is unrelated to service. Thus, we believe there is little likelihood that spurious claims for service connection would be granted.

Our singular reservation concerning H.R. 4333 involves the incorporation of "spastic colon" as a presumptive disease at this time. Spastic colon, preferably known as irritable bowel syndrome, is a functional disorder which differs from the other two conditions in that its etiology and pathogenesis are unknown and the diagnosis is more subjective, often made by exclusion. Because it is a somewhat vague diagnostic entity, we would much prefer to have the opportunity to consider it more closely. We would favor having this clause stricken from H.R. 4333, so that specialists in our Department of Medicine and Surgery can more fully weigh the merits of its inclusion among the presumptive diseases.

We estimate that enactment of these provisions of H.R. 4333 would entail insignificant costs for the VA.

In our view, the bill's proposed amendment relating to dental treatment for former POWs has considerable merit. Under current law, comprehensive outpatient dental care is provided to those who were interned at least 6 months. We believe that the qualifying period of internment now proposed, i.e., 90 days, is not unreasonable. In some circumstances of incarceration, dental/oral pathology could develop and become irreparable in a period of 90 days.

Granting eligibility for full dental benefits to this group of former POWs would bring the scope of dental benefits more in alignment with existing medical benefits which are currently offered to this group of veterans. This amendment should also help to simplify the eligibility-determination process.

We estimate that, for this expanded dental-care eligibility, first-year costs would approximate \$174 thousand and five-year costs would approximate \$780 thousand, which would easily be absorbed within existing appropriations.

Advice was received from the Office of Management and Budget that, with respect to virtually identical testimony delivered by this Agency on June 5, 1986, there was no objection from the standpoint of the Administration's program.

Sincerely,

THOMAS K. TURNAGE, *Administrator*.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

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PART II—GENERAL BENEFITS

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

Subchapter II—Wartime Disability Compensation

§ 312. Presumptions relating to certain diseases and disabilities

(a) * * *

(b) For the purpose of section 310 of this title and subject to the provisions of section 313 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the disease of—

- (1) avitaminosis,
- (2) beriberi (including beriberi heart disease),
- (3) chronic dysentery,
- (4) helminthiasis,
- (5) malnutrition (including optic atrophy associated with malnutrition),
- (6) pellagra,
- (7) any other nutritional deficiency,
- (8) psychosis,
- (9) any of the anxiety states, [or]
- (10) dysthymic disorder (or depressive neurosis),
- (11) *organic residuals of hypothermia, particularly frozen hands and feet,*
- (12) *spastic colon,*
- (13) *arthritis due to trauma,*

which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

CHAPTER 17—HOSPITAL NURSING HOME, DOMICILIARY, AND MEDICAL CARE

Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

§ 612. Eligibility for medical treatment

(a) (1) * * *

(b)(1) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—

(A) * * *

(G) from which a veteran who is a former prisoner of war and who was detained or interned for a period of not less than [six months] 90 days is suffering; or

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